IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 3391 OF 2004

Smt.Sumati Sadashiv Aathawale & Anr.....Petitioners.

Versus

The Pune Municipal Corporation
Servants Co-op. Urban Bank Ltd..... Respondent.

Mr. S. M. Oak for the Petitioners.
Mr. Vijay G. Peshave for the Respondent.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard Mr. S. M. Oak, learned Counsel for the petitioner.

2. The decree passed in R. C. S. No. 1594 of 1974 came to be confirmed by the lower appellate court, this Court and the Honourable Supreme Court. Civil Appeal No. 8170 of 1994 was dismissed by the Supreme Court on 13th August, 1995. In the meanwhile, an application came to be filed before the Small Causes Court at Pune for recovery of mesne profit and the same was registered as Mesne Profit Application No. 1594 of 1974. This application was allowed by the

learned Additional Judge, Small Causes Court at Pune on 27th March, 2003 and Civil Appeal No. 337 of 2003 filed against the said order came to be dismissed by the learned 5th Additional District Judge at Pune on 20th March, 2004. Hence this writ petition under Article 227 of the Constitution of India.

3. Undoubtedly, the petitioners have the remedy of filing civil revision application and therefore when such a statutory remedy is available, this writ petition need not be entertained. The same is disposed off as withdrawn with liberty to file civil revision application and if such an application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

4. The interim order of stay granted earlier will continue to operate for a period of two weeks more from today.

5. Annexures to the petition memo be returned, if applied for.

6. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)